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ILLUMINA, INC. and ILLUMINA CAMBRIDGE LTD.

13
14 UNITED STATES DISTRICT COURT
15 SOUTHERN DISTRICT OF CALIFORNIA

16 ILLUMINA, INC. and ILLUMINA
CAMBRIDGE LTD.,

17 Plaintiff,

18 v.

19 COMPLETE GENOMICS, INC., and
20 DOES 1-50, inclusive

21 Defendants.

CASE NO. **'12CV1465 AJB BGS**

**COMPLAINT FOR INFRINGEMENT OF
UNITED STATES PATENT NO. 8,192,930**

JURY TRIAL DEMANDED

22
23 Plaintiffs ILLUMINA, INC. and ILLUMINA CAMBRIDGE LTD. ("ILLUMINA
24 CAMBRIDGE") (collectively "ILLUMINA"), by their undersigned attorneys, for their
25 Complaint against Defendant, COMPLETE GENOMICS, INC. ("COMPLETE GENOMICS"),
26 allege:

27 **NATURE OF THE ACTION**

28 1. This is an action for patent infringement under the patent laws of the United

1 States, Title 35 U.S.C. § 100 et seq., including 35 U.S.C. § 271(a), arising from COMPLETE
2 GENOMICS' infringement of U.S. Patent No. 8,192,930 ("930 patent"), which is owned by
3 ILLUMINA.

4 2. ILLUMINA seeks damages for COMPLETE GENOMICS' infringement of the
5 '930 patent, including treble damages and attorneys' fees, and a permanent injunction restraining
6 COMPLETE GENOMICS from further infringement.

7 THE PARTIES

8 3. ILLUMINA, INC. is a Delaware corporation with its principal place of business at
9 5200 Research Way, San Diego, California, 92122.

10 4. ILLUMINA, INC. is one of the leading companies in the world in genetic analysis.

11 5. ILLUMINA CAMBRIDGE LTD., a wholly owned subsidiary of ILLUMINA,
12 INC., is a corporation organized under the laws of the United Kingdom, with its principal place of
13 business at Chesterford Research Park, Little Chesterford, Nr Saffron Walden, Essex CB10 1XL,
14 UK.

15 6. ILLUMINA's revolutionary products have enabled rapid advances in genome
16 sequencing, disease research, drug development, and the development of molecular tests for
17 clinical use.

18 7. ILLUMINA has made heavy investments in the research and development of new
19 technologies in these fields.

20 8. Upon information and belief, COMPLETE GENOMICS is a Delaware corporation
21 with a principal place of business at 2071 Stierlin Court, Mountain View, California, 94043.

22 9. COMPLETE GENOMICS has been and is in the business of offering genome-
23 sequencing services to customers throughout the United States.

24 JURISDICTION AND VENUE

25 10. This Court has subject-matter jurisdiction over this action pursuant to 28 U.S.C. §§
26 1331 and 1338(a), and 35 U.S.C. § 100 et seq., including 35 U.S.C. § 271(a).

27 11. This Court has personal jurisdiction over COMPLETE GENOMICS because
28 COMPLETE GENOMICS has availed itself of the rights, protections, and benefits of California

1 law by making, using, selling, and/or offering for sale products, services, methods and/or systems
2 in California.

3 12. Venue is proper in this District pursuant to 28 U.S.C. §§ 1391 and 1400(b)
4 because Defendant COMPLETE GENOMICS has, among other things, committed infringing acts
5 in this District.

6 **FIRST CAUSE OF ACTION**

7 **(INFRINGEMENT BY COMPLETE GENOMICS OF U.S. PATENT NO. 8,192,930)**

8 13. ILLUMINA realleges and incorporates by reference the allegations of paragraphs
9 1-12 of this Complaint.

10 14. United States Patent No. 8,192,930 (“’930 patent), entitled “Method for
11 Sequencing a Polynucleotide Template” (a copy of which is attached hereto as Exhibit A), was
12 duly and legally issued on June 5, 2012.

13 15. The ’930 Patent claims priority to U.S. Patent Application No. 12/223,759, filed
14 February 8, 2007.

15 16. The ’930 Patent issued in the names of Eric Vermaas, Graham John Worsley,
16 Jonathan Mark Boutell, Colin Lloyd Barnes, Roberto Rigatti, Niall Anthony Gormley, Geoffrey
17 Paul Smith, Vincent Peter Smith, Tobias William Barr Ost, and David Bentley.

18 17. The ’930 Patent is a reflection of ILLUMINA’s heavy investment in research and
19 development of technologies for genetic analysis.

20 18. The ’930 patent contains claims encompassing polynucleotide-sequencing
21 methods in which, among other things, a polynucleotide is sequenced by hybridising and reading
22 from a first primer, removing the first primer, then hybridising and reading from a second primer
23 at a different location in the same polynucleotide.

24 19. For example, Claim 1 of the ’930 Patent recites: “A method for pairwise
25 sequencing of first and second regions of a double stranded polynucleotide wherein said first and
26 second regions are in the same target double-stranded polynucleotide, the method comprising
27 hybridising and reading from a first primer, removing the first primer followed by hybridising
28 and reading from a second primer at a different location in the same target double stranded

1 polynucleotide.”

2 20. ILLUMINA owns all right, title, and interest in the '930 patent.

3 21. COMPLETE GENOMICS has been and is making, using, selling, and/or offering
4 for sale products, services, methods and/or systems, under the moniker “COMPLETE
5 GENOMICS Analysis Platform” or “CGA Platform.”

6 22. As part of the “COMPLETE GENOMICS Analysis Platform” services offered and
7 sold to customers throughout the United States, COMPLETE GENOMICS has been practicing
8 and continues to practice a method, which it refers to as “Combinatorial Probe-Anchor Ligation”
9 (or “cPAL”) “read technology,” in which, among other things, a polynucleotide is sequenced by
10 hybridising and reading from a first primer, removing the first primer, then hybridising and
11 reading from a second primer at a different location in the same polynucleotide.

12 23. COMPLETE GENOMICS’ practice of the “COMPLETE GENOMICS Analysis
13 Platform,” and in particular its practice of the “cPAL read technology” method, directly,
14 indirectly, and/or contributorily infringes, literally or by equivalence, at least Claim 1 of the '930
15 patent under 35 U.S.C. § 271.

16 24. ILLUMINA has suffered and continues to suffer damages as a result of
17 COMPLETE GENOMICS’ infringement of one or more claims of the '930 patent.

18 25. COMPLETE GENOMICS will continue to infringe one or more claims of the '930
19 patent unless and until enjoined by this Court.

20 26. ILLUMINA will suffer irreparable harm due to COMPLETE GENOMICS’
21 continuing infringement of one or more claims of the '930 patent.

22 27. ILLUMINA has no adequate remedy at law for COMPLETE GENOMICS’ past
23 and continuing infringement of one or more claims of the '930 patent, and is entitled to a
24 preliminary and permanent injunction against further infringement.

25 28. This is an exceptional case, and ILLUMINA is entitled to an award of attorneys’
26 fees under 35 U.S.C. § 285.

27 **PRAYER FOR RELIEF**

28 WHEREFORE, ILLUMINA prays that this Court grant the following relief:

1. Declaring that the '930 patent is valid and enforceable;
2. Declaring that COMPLETE GENOMICS has infringed and is infringing the '930 patent, both directly and indirectly, under 35 U.S.C. §§ 271(a), (b), and (c), both literally and under the doctrine of equivalents;
3. Preliminarily and permanently enjoining COMPLETE GENOMICS, its subsidiaries, agents, officers, employees, directors, licensees, servants, successors, assigns and all others acting in privity or in concert with them, from infringing the '930 patent in any manner, including by inducing or contributing to the infringement of others;
4. Ordering COMPLETE GENOMICS to deliver to ILLUMINA, for destruction at ILLUMINA's option, all products, systems, and materials relating to services and/or methods that infringe the '930 patent in any manner;
5. Accounting for damages and awarding ILLUMINA damages adequate to compensate ILLUMINA for the foregoing infringement, along with an accounting and award of pre-judgment and post-judgment interest and costs, in accordance with 35 U.S.C. § 284;
6. Finding that this is an exceptional case under 35 U.S.C. § 285 and ordering COMPLETE GENOMICS to reimburse ILLUMINA for its attorneys' fees and costs incurred in connection with this action; and
7. Granting ILLUMINA such other and further relief as this Court deems just and reasonable under the circumstances.

JURY DEMAND

Pursuant to Fed. R. Civ. P. 38(b), ILLUMINA requests a trial by jury on all issues so triable.

Dated: June 15, 2012

PAUL, PLEVIN, SULLIVAN &
CONNAUGHTON LLP

By: /s/ E. Joseph Connaughton
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